

## **MEMORANDUM**

TO: City Council  
FROM: Steve Westbay  
DATE: April 5, 2016  
RE: Sidewalk Cafe Standards

### ***Introduction***

Recently, the Council directed staff to plan a strategy to implement a program for managing the public streetscape for the downtown corridor. Initial work on this task has included the inventory and mapping exercise to define existing street features. On March 14<sup>th</sup>, staff members, Leia Morrison and Matt Schwartz met to review the mapped information and discuss the project needs. Some of the more salient ideas discussed at the meeting included developing a survey to gain information and feedback from business owners, how the use and placement of existing street features may be reorganized to accommodate a more functional and appealing sidewalk configuration, what standards may be used to manage the private use of the public sidewalk system, and how to address the potential for sidewalk cafe seating.

In an attempt to provide more order and meaning to the effort, it is recommended that the process be segmented into more specific tasks which include the following program elements:

1. Review and address sidewalk cafe seating standards and procedures so related changes may commence during this upcoming summer season;
2. Define changes to public street furniture, trash receptacles, bike racks, and planter arrangements that can be accomplished in the near future; and
3. Work with business owners to implement the rearrangement task of public features and manage the use of public spaces for merchant display.

The critical path for implementing changes this summer requires that cafe seating be placed as the first part of the programming. This first step will also help to guide other actions and programs because it requires that certain parameters be established for ensuring effective and efficient public sidewalk functions. This memorandum provides a summary of existing *Municipal Code* provisions that direct the use of public sidewalks, it describes standards used by other jurisdictions to manage sidewalk cafe seating and concludes with a framework to move forward with actions that implement the Council's directive.

### ***Existing Municipal Code Standards***

The *City of Gunnison Municipal Code* presently regulates the use of public rights-of-way (ROWs) under the Business Regulations (Title 8) and Public ways and Properties (Title 9). Section 8.20 (Sidewalk Vending) of the Municipal Code sets forth a series of standards for public vending. While these standards are somewhat antiquated, they serve as a basis for regulating the display of merchandise within ROWs servicing the Commercial and Central Business Districts. The existing standards require liability insurance be established that includes the City as an additional insured on the policy of any vendor. Standards also include dimensional measures regulating the placement and size of vending stands. Vendors are not allowed to display merchandise on sidewalks less than 10' wide; the stand must be placed against the adjacent building front and cannot exceed 4' width, 6' length and 7' height; and displays cannot create dangerous conditions or impede emergency ingress/egress into any building.

Section 9.40.030 (Structures, signs and retail display) of the Municipal Code prohibits the placement of structures, signs or retail displays without written permission of the City and terms and conditions are fully executed by a City License Agreement. Standards established under this code section are similar to the business regulations defined in Section 8.20, with the exception that it assigns a minimum 4' clear tread width or comply with ADA requirements, whichever is more restrictive.

In summary, existing Municipal Code provisions, while somewhat antiquated, provide direction for managing use of public spaces. Some of the initial issues identified within the existing code are as follows:

- The codes do not assign the administrative responsibility to a specific department. Management is under the general responsibility of public works, community development and neighborhood services, so the oversight responsibility is confusing.
- Applying code provisions in two different sections of the municipal code is confusing and ineffective. From a procedural and interpretation standpoint the standards should be contained in only one section of the *Municipal Code*.
- The standards are somewhat antiquated and do not provide uniform direction that establishes a balance between the need to ensure public use and circulation is properly addressed and desire by merchants to derive a potential benefit for using these public spaces. Finding a balance that creates safe and vibrant spaces in the city's commercial corridors is critical for the success of the contemplated changes.
- The Municipal Code only addresses the use of ROWs in the Commercial District and the Central Business Districts. The 2014 Land Development Code update included an amendment to permit restaurants to operate in the B-1 District which encompasses real property on Highway 135 between Ohio Avenue and Denver Avenue. The developed properties in the B-1 District may be ideal for boutique dining establishments that could benefit from outdoor seating that may be configured within the highway ROW.

### ***Criteria Used by Other Jurisdictions***

In preparation for this discussion a review of several other municipal codes was completed to assess a menu of standards presently used to address sidewalk cafe seating. Some general provisions seem to be reoccurring within the municipal standards reviewed. For example every municipality treats public sidewalk uses as a revocable contact and all jurisdictions either charge for the use or have permit fee provisions – several require the requisition of fees for attorney services associated with the application. The majority of the other codes reviewed require liability indemnification for the use in the public space. Most of the jurisdictions establish a minimum clear tread width distance, usually between 5' and 7' that must be maintained for safe and efficient pedestrian movement; many codes define clear widths at the curb edge. The majority of codes address accessibility provisions for emergency ingress/egress needs. Several apply design standards for barrier fences. Several codes address design standards for tables, seating and umbrella furnishings. Other factors that are addressed include conditions related to audio systems, hours of operation, and lighting and glare issues. Maintenance and cleaning is also a common factor addressed in other codes. It is appropriate for the Council to consider what standards may be most appropriate to apply and provide staff with direction that best fit the needs of Gunnison.

### ***Conclusion***

It is proposed that the current emphasis be directed towards addressing sidewalk cafe provisions so business owners may have the opportunity to use the sidewalk system this coming summer. The existing configuration of public street features and the potential to rearrange furnishing will be a work in progress. The rearrangement tasks are proposed to be dealt with on a staff level initially and with coordination of business owners. It is also suggested that outreach be conducted to inform business owners of the existing City standards addressing vending display and signage.